



# Legality

"A seminal publication of Şengün Group"

April - May 2023 | E-Bulletin

## Election Security

Overview of Amendments to the Law on Mediation Resulting from the 7th Judicial Package

Guest Sector:  
The Latest Trend in the Financial Services Industry: FinTech

Special Day:  
April 5: Lawyers' Day  
May 1: International Workers' Day

News to the World  
World News

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**APRIL - MAY 2023**

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## Legality Editor's Note

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**Dear Reader,**

Şengün Academy is delighted to introduce the April-May 2023 issue of its newsletter, which features the latest national and international news and provides in-depth and clear insights into various industries.

In this issue, our articles will cover election security, regulations on voting and vote counting, as well as the amendments to the Law on Mediation resulting from the 7th Judicial Package.

Our industry-in-focus will be financial technology, and we will define “FinTech” and its progress over the years.

This issue's special days will be Lawyers' Day (April 5) and International Workers' Day (May 1), whose origins will be covered in detail.

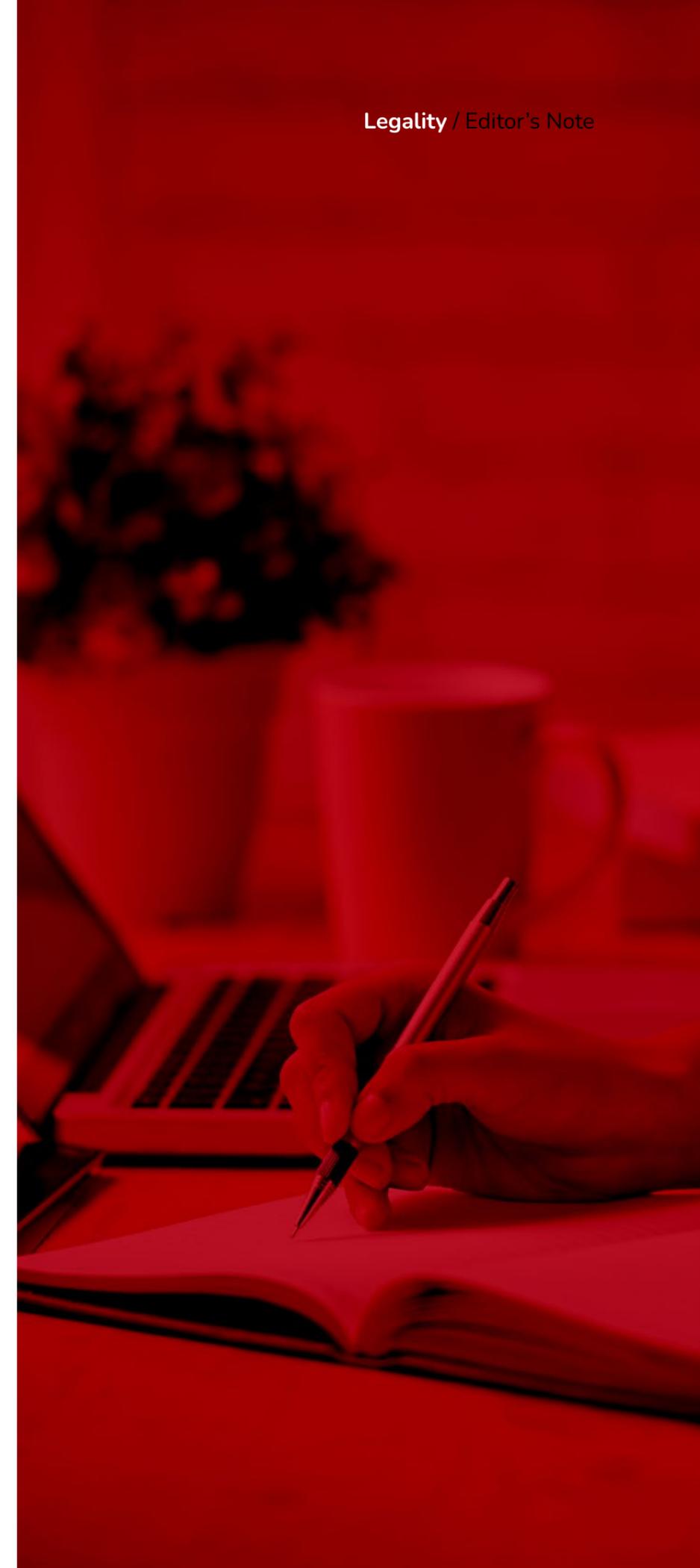
Our “News to the World” section will offer the latest regulations, decisions, communiqués, laws, requirements and amendments affecting national and international relations.

Our new section, “World News”, will keep you up-to-date with the latest international news in a transparent fashion.

Finally, the “News from Şengün” section will provide the latest news from our team.

**Enjoy reading!**

**Istanbul, April-May 2023  
Şengün Academy**



# Articles



## Article

# Election Security

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The Constitution of the Republic of Türkiye and Presidential Elections Law no. 6271 stipulate that presidential and parliamentary elections in Türkiye must be held every five years in Türkiye, and that an individual is eligible to serve as the President for up to two terms. It was announced earlier this year that the Presidential Elections and the 28th Term Parliamentary Elections would take place on May 14, 2023.

The Supreme Election Council (“YSK”), which was established in 1950, manages elections and serves as the final decision-making authority in objections to the formation, operations, decisions and the candidate lists of the provincial election councils prior to election day. However, in addition to managing and controlling elections in general, the YSK also conducts the judicial review of elections because it has a structure made up of individuals who were chosen by the Court of Appeal and the Council of State from among themselves.

### New Rules for Election Day

New rules were put in place for the voting of those affected by the earthquake that struck on 6 February 2023 and had an impact on 11 provinces. First and foremost, earthquake victims who have relocated to another province should register in that province until 17 March 2023. As for address notifications following that date, persons registered in the announced disaster areas may apply to the relevant civil registry office, either in person or through those listed in article 50 of Law no. 5490, to be able to vote if they identify any mistake, omission, or registry changes in the announced voter lists and records of the neighborhood, or if they have changed their residential address within the voter announcement period (20 March 2023-2 April 2023) and their names are not available in the announced voter lists of the neighborhood despite being an eligible voter, by submitting a signed and approved address declaration form specifying the address registered by the civil registry office, as well as any pertinent annexes, to the presidency of the district election council. There is no need to submit any further documentation. Hence, special ballot drop boxes will not be set up for voting in the earthquake-affected areas; instead, everyone will vote where they are registered.



On 14 May 2023, presidential and parliamentary elections will begin at 08:00 and last until 17:00. In accordance with the YSK's decisions regarding election day, published in the Official Gazette, public entertainment venues will be closed throughout the day. Moreover, media commentary and predictions regarding the elections and their results will be prohibited until 18:00. The public can receive the news and announcements about the elections from the YSK between 18:00 and 21:00, but no other broadcasts will be permitted until after 21:00.

The decisions of the YSK will also be effective if a second presidential election is held on 28 May 2023.



**Vote Counting, and Invalid Voting**

On election day, the balloting, counting, and recording of the votes will be handled by a balloting committee made up of seven members. The political parties that garner the most votes in the relevant district will choose the committee’s five members.

**The balloting committee will take the minutes for the election results, and a copy of the minutes will be provided to the political parties. Another copy of the minutes should be displayed to the voters at ballot drop box locations.**

This whole process intends to guarantee the transparency of the elections.

The YSK will have immediate access to the data after the votes are uploaded into the system, and the results will be communicated to the political parties participating in the elections. Following the finalization of the election results, the YSK will release all the ballot drop box results and their wet-signed minutes on its public website. Thus, voters will be able to see how many votes were cast for each political party at their ballot drop box locations, facilitating a transparent voting process.

It is critical that voters cast their votes properly. Therefore, the YSK specified the cases of invalid voting. Accordingly, a vote will be considered invalid if:

- The vote stamp (“Evet” or “Tercih”) is not impressed,
- The voter has marked more than one alliance, political party, or candidate,
- The ballot is physically deformed, compromising its integrity,
- The voter has used special marks, a signature stamp or fingerprints on the ballot, instead of the official vote stamp,
- The ballot is filled out with a distinctive scribble, drawing or marking, and
- An item that represents something comes out of the envelope. In this framework, all voters should cast their ballots as required and adhere to any applicable restrictions on election day in order to exercise their constitutional right to vote and be elected.



Another YSK decision regarding candidate lists reveals that 24 political parties will participate in the elections, and 152 independent candidates will run for parliamentary office. In conclusion, people will vote in both the presidential and parliamentary elections on 14 May 2023, and they should vote carefully so that their votes are not deemed invalid

**Özge Okay, Managing Associate**



## Article

# Overview of Amendments to the Law on Mediation Resulting from the 7th Judicial Package

Law no. 7445 on Amendments to the Enforcement and Bankruptcy Law and Other Laws, known as the “7th Judicial Package”, was published in Official Gazette no. 32154 of 05.04.2023. This law amends not only the Enforcement and Bankruptcy Law and the Criminal Procedure Code but also Law no. 6325 on Mediation in Civil Disputes dated 07.06.2012 (“Law”).

### “Mediation” as a Dispute Resolution Method

The Law defines mediation as a voluntary dispute resolution method applied through an unbiased and independent professional who applies systematic techniques to bring the disputing parties together to discuss and negotiate, to facilitate communication so that they can understand each other and come up with their own solutions, and to provide a solution if the parties are unable to resolve their dispute.

To be a mediator, law school graduates with at least five years of professional experience must undergo vocational training that provides theoretical and practical information such as basic information about the mediation method, communication techniques, negotiation and dispute resolution methods, behavioral psychology, etc., in order to take the mediation exam held after the training to demonstrate their professional competency. Individuals who pass the mediation exam must register to the mediation list to act as a mediator. Only those on the Ministry of Justice’s mediation list are permitted to serve as mediators.

Mediation can either be (i) mandatory or (ii) voluntary as follows:

**i. Mandatory Mediation:** Certain types of disputes (labor litigation, commercial litigation, etc.) require mediation before filing a lawsuit. In these disputes, mediation is required before proceeding to litigation; otherwise, the lawsuit may be dismissed owing to a lack of a procedural requirement.

**ii. Voluntary Mediation:** Unlike mandatory mediation, voluntary mediation is optional for the parties,

who may use it to settle their differences before going to court. Any private law dispute in which the parties have a say may be settled through voluntary mediation.

Mediation is a good alternative since it offers an out-of-court, effective, fast, affordable, and confidential process overseen by an independent mediator to settle a dispute between different parties.

Only those on the Ministry of Justice’s mediation list are permitted to serve as mediators.



**Amendments to the Mediation Law and Law no. 7445 on Amendments to the Enforcement and Bankruptcy Law and Other Laws**

**1. In accordance with the amendment to “End of mediation” in article 17 of the Law:**

When the mediator fulfills their duty to provide justifications about the minutes and its conclusions released at the end of mediation, they will use all the available means of communication to inform the parties that are not present.

**2. In accordance with article 17/A on “Execution of international settlement agreements” added to the Law after article 17:**

The Law was amended to execute settlement agreements subject to the “United Nations Convention on International Settlement Agreements Resulting from Mediation”, known as the “Singapore Convention on Mediation”, effective as of 11 April 2022, in Türkiye to comply with the Convention.

Before addressing this amendment in detail, we should first provide an overview of the Singapore Convention on Mediation. The Singapore Convention on Mediation plays a crucial role in promoting international trade, facilitating the enforceability of mediation settlement agreements in commercial disputes in the signatory states, encouraging businesses to make risk-free investments abroad, and enhancing global economic relations. The Convention seeks to close a significant legal gap and promote the mediation method by governing the execution of settlement agreements resulting from international mediation processes.

Pursuant to the Convention approved under “Law no. 7282 on the Approval of the United Nations Convention on International Settlement Agreements Resulting from Mediation” of 25.02.2021, an annotation of enforceability must be acquired from the Commercial Court of First Instance to enforce settlement agreements resulting from mediation.

The annotation of enforceability may be requested from the court of the location chosen by the parties, or if such a location does not exist, from the court of the counter party’s place of residence in Türkiye, or if the party has no place of residence in Türkiye, from one of the courts in Ankara, Istanbul or Izmir.

The court will issue an enforceability annotation after assessing the relevant case, and if required, it may convene a hearing by providing its justification.

**3. In accordance with article 17/B, “Mediation in disputes regarding the transfer of immovable property or the**

**establishment of limited real rights on immovable property”, added to the Law to be effective as of 01.09.2023:**

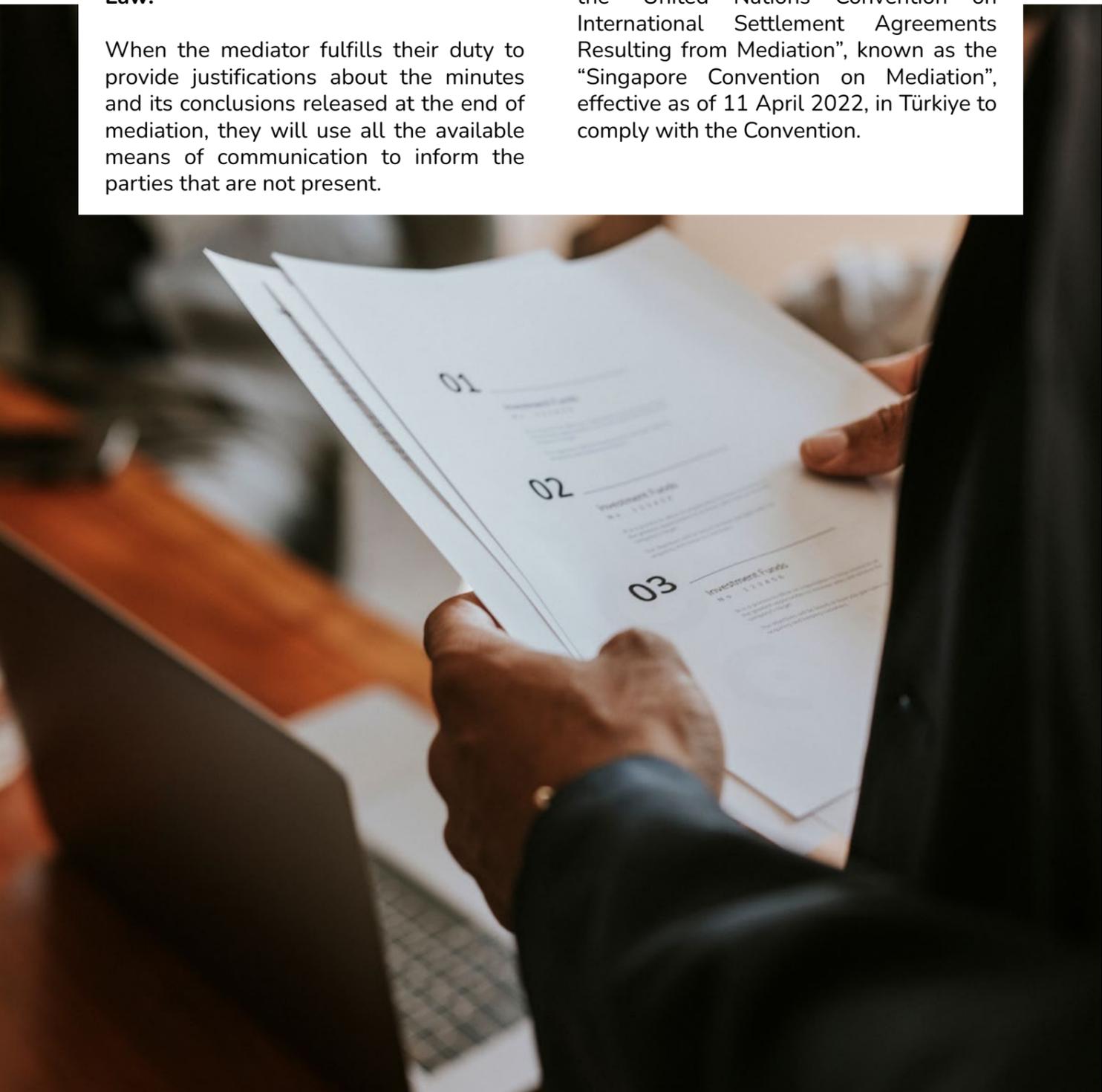
Disputes relevant to the transfer of immovable property or the establishment of limited real rights may be resolved through mediation.

In such disputes, an annotation specifying that ownership is restricted will be placed on the title registration, which will be effective throughout the mediation process and for a maximum of three months from the date of its insertion. This annotation will become null upon the mediator’s request or at the end of three months.

If the parties settle, an annotation of enforceability will be obtained from the court of peace where the immovable property is located. The court will review the settlement agreement and may request information or documents on the matter from institutions and organizations and hold a hearing if necessary.

**4. In accordance with the amendment to “Settlement of the parties” in article 18 of the Law:**

The settlement agreement signed by the parties, their attorneys, and the mediator will be regarded as a verdict and no annotation of enforceability will be necessary, with the exception of situations where an annotation of enforceability is mandatory. It will not be necessary for a settlement agreement between the parties to a commercial dispute to bear the parties’ signatures to be regarded as a binding decision without a court’s approval. Instead, a settlement agreement signed by an attorney and a mediator will be enforceable without the need for court approval.



**5. In accordance with the amendment to “Mediation as a procedural requirement” in article 18/A of the Law, which will enter into force on 01.09.2023:**

The mediator will be required to inform a disputing party even if the latter has an attorney.

If a party has requested for mediation, and enforcement proceedings are later initiated against them, they can file a negative declaratory action within two weeks from the issuance date of the final mediation minutes to prove that they do not owe any debts, and, upon their request, an interim injunction may be issued to halt the enforcement proceedings. With this amendment, the debtor will no longer be adversely affected when negative declaratory actions are subject to mandatory mediation.

**6. With amendments to article 5/A of the Turkish Commercial Code and article 3 of the Labor Courts Law, mandatory mediation will also be required in cases involving withdrawal of appeals, negative declaratory proceedings, and restitution claims that fall under the scope of these laws.**

**7. In accordance with article 18/B, “Mediation as a procedural requirement in certain disputes”, added to the Law to enter into force as of 01.09.2023:**

- i. Disputes arising from tenancy, with the exception of clauses requiring the eviction of rented property without a court decree,
- ii. Disputes regarding the division of movable and immovable

properties and elimination of joint ownership,

iii. Disputes arising from Turkish Condominium Law no. 634, and

iv. Disputes arising from vicinity rights will be subject to mandatory mediation and necessitate mediation as a procedural requirement.

An annotation of enforceability will be required to execute the settlement agreements concluded in this context. The annotation can be obtained from the court of peace where the immovable property is located for the settlement agreements regarding the property and from the court of peace where the mediator practices for other settlement agreements.

While reviewing settlement agreements regarding an immovable property, the court will look through the settlement agreement, determine if mediation and compulsory enforcement are appropriate in the relevant case, and decide whether the immovable property regulations, processes, and principles have been followed. During this process, the court may request documents or information from institutions and organizations and hold a hearing if necessary.

**8. In accordance with “Provisional Article 3” added to the Law to take effect from 01.09.2023:**

Provisions on mediation as a procedural requirement, added to the Law pursuant to article 18/B, will not apply to the cases pending at first instance courts, regional courts, and the Court of Appeal on the effective date of this article.

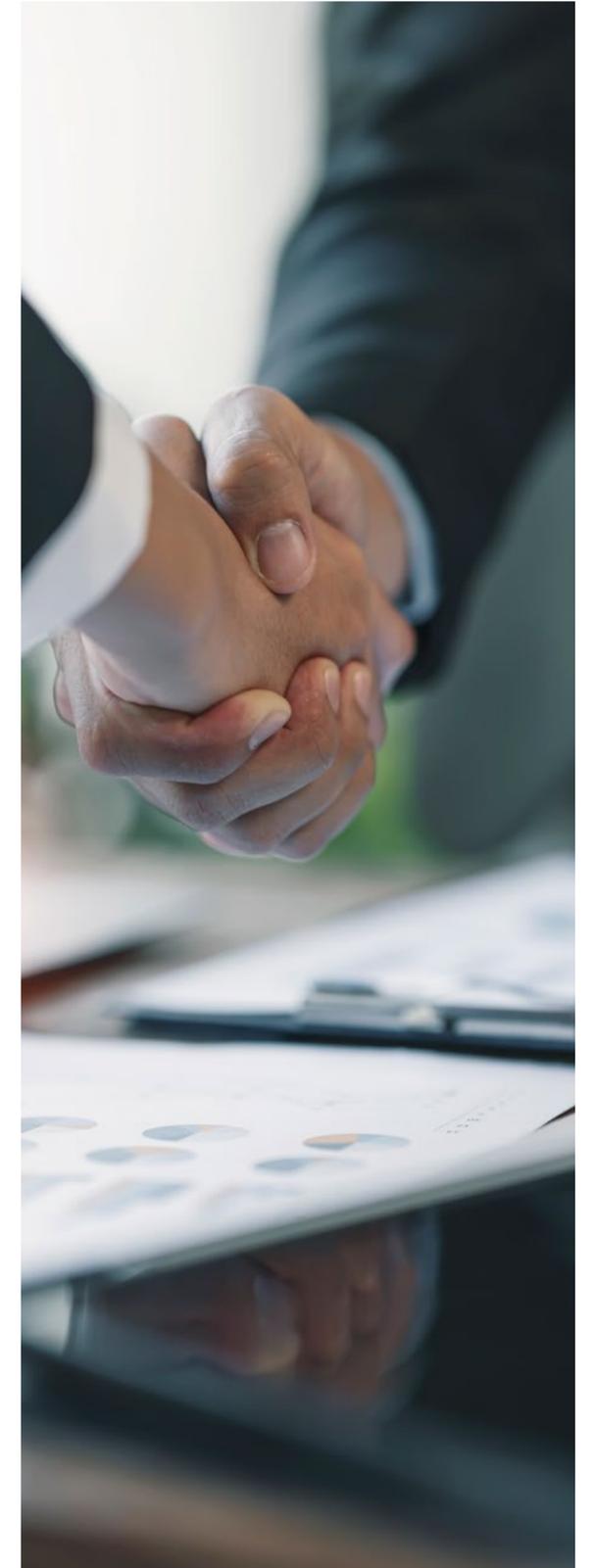
## Conclusion

Law no. 7445 on Amendments to the Enforcement and Bankruptcy Law and Other Laws, known as the “7th Judicial Package”, has also amended Law no. 6325 on Mediation in Civil Disputes.

The amendment has increased the number of cases requiring mandatory mediation. Accordingly, disputes arising from tenancy, with the exception of clauses requiring the eviction of rented property without a court decree, disputes regarding the division of movable and immovable properties and elimination of joint ownership, disputes arising from Turkish Condominium Law no. 634, and disputes arising from vicinity rights will now be subject to mandatory mediation.

Another significant amendment to the Law concerns the procedures and principles to execute settlement agreements subject to the “United Nations Convention on International Settlement Agreements Resulting from Mediation”, known as the “Singapore Convention on Mediation”, in Türkiye to comply with the Convention.

**Betül Önal, Associate**



# Guest Sector



## Guest Sector

# The Latest Trend in the Financial Services Industry: FinTech

The most crucial objective that emerges from globalization in the corporate realm is to keep a close eye on the latest trends. In this era, it is essential to incorporate the most recent trends fully into business operations. In view of the fundamental components of business, it becomes apparent that the financial services industry is quickly making significant progress and bringing about substantial advancements and transformations in conjunction with law and information technology, even in the most trivial aspects of our everyday lives.

Undoubtedly, the financial services industry, which serves as the foundation of commercial life, experiences the most pronounced impact of this transformation. Indeed, the latest trend of “FinTech”, short for “financial technology”, presents a challenging task of establishing a standardized set of criteria for incorporating advancements into positive law, despite concerted efforts to create a comprehensive regulatory structure.

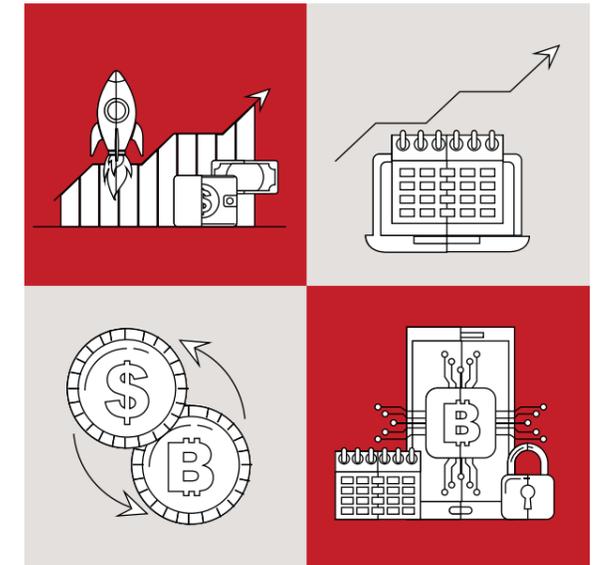
In fields that rely on rules or numbers, such as law and finance, accommodating and forging a path for IT innovations can be a formidable task. However, the developing technologies have largely overcome the resistance of these fields to innovation. In this context, FinTech signifies an innovative technological arena that streamlines traditional financial services through technological breakthroughs. Despite its initial aim of promoting financial progress, FinTech now serves in diverse domains within the evolving global landscape. Currently, FinTech is an expanding and flourishing industry with an extensive range of services, encompassing mobile banking, cryptocurrency, and virtual reality. It employs special algorithms, codes, and software to manage technological financial processes and simplify operations for both corporations and consumers & users.

Contrary to expectations, the conventional legal industry has not undergone a comparable pace of transformation in response to such innovations. Still, concentrated efforts are underway to stay up-to-date with these significant advancements, and it is crucial to acknowledge that legal relationships are construed within the confines of contractual parameters.

The proliferation of FinTech companies serves to:

- Promote a practical and efficient business workflow, especially in the field of financial services,
- Create efficient and solution-oriented business strategies,
- Ensure easy and quick access to services,
- Provide flexible and unrestricted access to services, regardless of location,
- Enable the formulation of development strategies founded on end-user experience,
- Establish transparent and productive business processes,
- Streamline data analysis, and handle complaints easily.

However, this list is not exhaustive due to the extent of FinTech. Since the process is challenging to interpret within the framework of traditional legal rules, it is necessary to understand and integrate the relevant developments with current technologies and legal norms.



In this context, FinTech companies are incorporating cutting-edge technologies into conventional financial services worldwide to enhance the speed, efficiency, effectiveness, and safety of these services. Promoting effective development and innovation in all areas of finance, FinTech companies play a key role in the advancement of an industry that has been making significant progress.

In 2022, the FinTech trends that made a significant impact were global e-commerce, blockchain and super-apps.



**i. Global e-commerce:**

FinTech has been instrumental in advancing global e-commerce, a trend that has gained momentum due to the pandemic and is expected to accelerate further in 2023. Thanks to the advantages offered by FinTech, even small and medium-sized e-commerce enterprises that previously operated solely in domestic markets have demonstrated potential for growth in the wake of the pandemic. The key is to offer easy access and convenient payment options to customers, and the prospects for businesses that provide these features through FinTech are constantly expanding.



**ii. Blockchain:**

In 2022, the FinTech industry underwent a significant transformation due to the impact of blockchain technology. While cryptocurrency, virtual reality, and metaverse are greatly influencing our daily lives, it is challenging to stay current with the latest advancements and constructing a legal framework to incorporate FinTech technologies and reinforce firewalls, particularly for the protection of personal data.



**iii. Super-apps:**

In 2022, apps that provided multiple services on a single platform advanced and garnered greater interest by enabling convenient access to various services, such as transportation and food delivery. This trend enhanced financial services and necessitated diverse legal solutions in the FinTech domain, encompassing employment law, private law contracts (such as sales agreements, consumer agreements, personal data protection agreements, confidentiality agreements, etc.), and commercial contracts between businesses.



In conclusion, FinTech and the companies operating in this field have accelerated and streamlined services, resulting in increased convenience in our daily lives. Offering tremendous convenience in terms of time, material, and space, FinTech has become a fundamental aspect of the global landscape, fueling substantial and transformative changes in the legal domain and facilitating the sustainability of these advancements.

Gülşah Güven, LL.M., Senior Associate

**FinTech signifies an innovative technological arena that streamlines traditional financial services through technological breakthroughs.**



# Special Day



## Special Day

### April 5: Lawyers' Day

The practice of law has evolved into its current form as a result of historical national and international events.



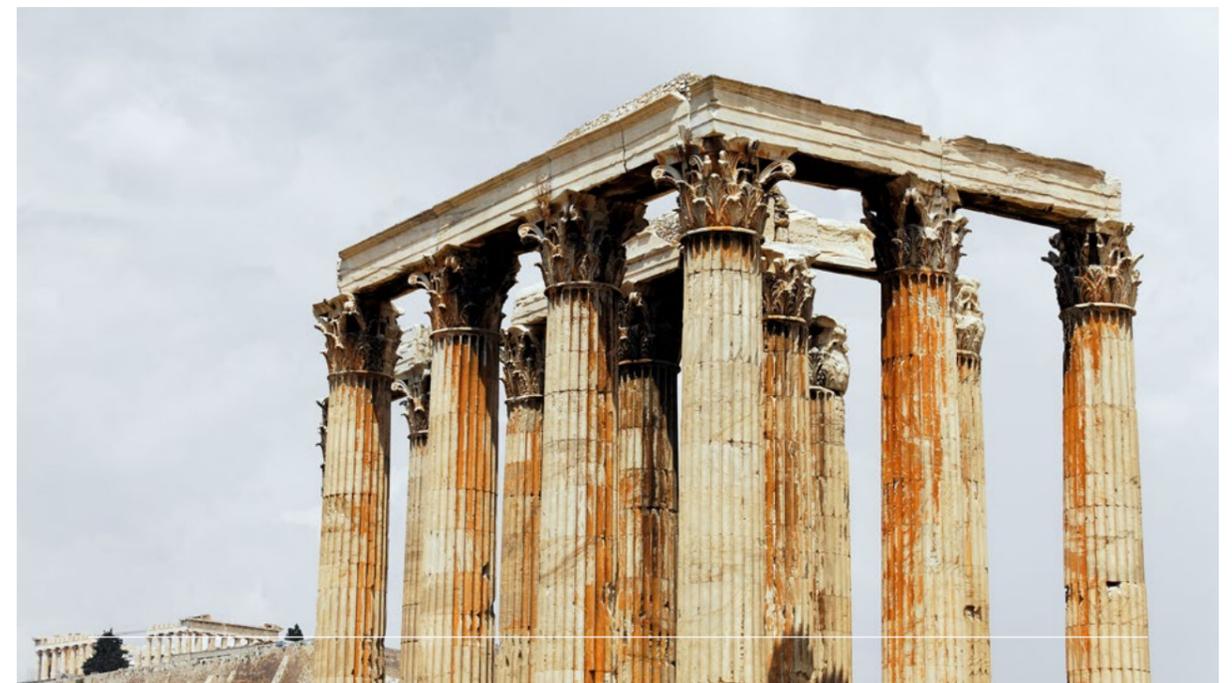
The history of the legal practice dates back to the time of the Ancient Greeks, when there was a judicial system called the “formula regime” in which the Solonian Constitution mandated that the parties appear before the judge in person. However, the party appearing before the judge was not permitted to have a friend or family member with them to assist in their defense. Over time, individuals known as “logographers”, similar to modern-day petitioners, emerged to prepare a defense for parties who were unable to articulate their defense effectively in front of the judge and lacked sufficient knowledge on how to do so. The foundation for modern legal practice was laid when logographers began to defend the parties in court. The first bar association was also established in Athens.

In the Ottoman Empire, petitioners who received specialized training and were exclusively tasked with writing petitions served as the starting point of the legal profession. The earliest examples of lawyers were deputies who had previously served as bailiffs and were thus familiar with court procedures. However, since these deputies were not advocates, they did not practice law as we know it today. They were not chosen by the principal to represent them; instead, they were

assigned by the kadi. These deputies were called “vekîl-i müsahhar”. In response to public reaction to the fact that deputies were not subject to a specific law and lacked specialized training, some steps were taken following the proclamation of the Edict of Gülhane (Tanzimat Fermanı). Thus, during the Tanzimat era, the deputy evolved into a type of lawyer, defined as an individual from the same lineage who met the conditions stipulated by laws and regulations and dedicated their time to defending the material and moral rights of citizens. The Penal Code of 1858 (Ceza Kanûnu), the Commercial Procedure Regulation (Usûl-i Muhakeme-i Ticaret Nizamnâmesi) and various other laws were also enacted in this era.

Following the ratification of the first regulation governing lawyers, Dersââdet Lawyers Association Regulation (Dersââdet Dava Vekilleri Cemiyeti Nizamnâmesi), lawyers started to unite and form professional associations. The

Regulation prescribed the boundaries of the legal practice by addressing a number of issues, including requirements for becoming a lawyer, the relevant exams, and fees. Therefore, the Regulation laid the foundations of the legal practice in the Ottoman Empire, turning the practice of law into a profession that could only be practiced by those who received training and abided by certain rules. In 1870, foreign lawyers founded the Empire’s first bar association under the name of Société du Barreau de Constantinople (Constantinople Bar Association) in Istanbul with the aim of resolving disputes related to capitulations and commercial issues. The National Regulation on the Association of Lawyers (Dava Vekilleri Cemiyeti Dâhilî Nizamnâmesi), issued in July 1880, and subsequent regulations made it mandatory to speak Turkish and fulfill certain other national requirements to practice law in the Ottoman Empire. This brought the legal profession closer to what we recognize today.





During the Republican era, the first regulation on the legal practice was Legal Profession Law (Muhamat Kanunu) no. 460 of 03.04.1924, which laid down specific rules for lawyers for the first time. The terms “muhamat” and “muhami” in this law were later changed into “avukatlık” (legal practice) and “avukat” (lawyer) with the 1st article of Law no. 708 of 06.01.1926. Later, Legal Practice Law no. 3499 of 27.06.1938 (Avukatlık Kanunu) was passed, which was replaced by the current Legal Practice Law no. 1136 on 07.07.1969.

### Republican Era



As the legal profession continues to evolve, it demands a high level of expertise in the field of law, a science that comprises specific principles and doctrines, to adeptly and accurately apply it to the intricate relationships between individuals. The sanctity of the right to defense and its status as a fundamental right are contingent upon the independent practice of the legal profession. The independence of a lawyer encompasses not only professional autonomy, but also the ability to remain detached from any professional body, executive authority, or judicial power. It requires embracing and advocating certain principles of equality without any restrictions.



Today, the legal profession is not accorded due respect owing to several factors, such as the proliferation of law faculties without adequate consideration of their quality and quantity, inadequate assessment of professional knowledge and expertise, and symbolic adherence to international agreements in domestic law, all of which could potentially decrease lawyers’ motivation and dedication to their profession. In the hopes of a deeper appreciation for the significance of advocacy, one of the three pillars of the judiciary, and a stronger defense mechanism, we celebrate Lawyers’ Day of all our colleagues who practice their profession with adherence to the principles of justice, equality, honesty, and the rule of law.

**Elif Gür, Associate**

## Special Day

### May 1: International Workers' Day

**International Workers' Day is celebrated on May 1 across the world to defend the rights of the working class, enhance working conditions, and guarantee fair compensation for labor in remembrance of those who fought for workers' rights.**

The origin of International Workers' Day dates back to 1856 in Australia when stonemasons requested a reduction in working hours. The movement continued with workers' demands for an eight-hour workday and the right to unionize, which were prominent during the strikes that occurred in Chicago, USA in 1886.

During the 19th century, workers were subjected to inhumane working conditions around the world and often struggled with poverty due to the inability to receive fair compensation for their labor. Under severe working conditions, factory laborers, including children, were required to work more than 12 hours a day, six days a week. Amidst these unbearable working conditions, workers in Chicago initiated a strike in 1886, demanding an eight-hour workday. On the third day of the strikes, violent confrontations erupted between the police and the workers, resulting in the deaths of several workers. The following day, the workers regrouped at the scene and launched an attack on the police. Following the attack, the authorities ordered the apprehension of the leaders of the strike, which was then followed by a bombing incident that occurred in the vicinity of the gathering of workers. Seven police officers and at least four workers died during the incident. In the ensuing



trial, 8 workers were found guilty, with 4 of them receiving a death sentence. The execution of those sentenced to death was carried out on May 1, 1886. As a pivotal moment in the history of the working class, this event sparked a global rise in demands for workers' rights and better working conditions. Following these events, a meeting was held in Paris in 1891, during which the suggestion of a French representative of the workers to celebrate May 1st as International Workers' Day was embraced. Many countries throughout the world adopted this decision.

In Türkiye, International Workers' Day was formally recognized in 1923, under the name of "Workers' Day". Although the day, which was initially celebrated on 1 May 1923, holds great significance in the fight for workers' rights in the country, the demonstrators have encountered numerous obstacles during Workers' Day celebrations through the years. Following the coup on September 12, Workers' Day celebrations became prohibited and remained thus for a period of 30 years. Towards the end of the 1980s, there was

a resurgence in the fight for workers' rights in Türkiye, leading to renewed discussions regarding the celebration of Workers' Day. Nonetheless, this period was marked by frequent clashes, resulting in the loss of many lives. As workers' rights faced growing pressure in Türkiye through the years, celebrating Workers' Day became increasingly challenging. This period alternated between prohibition and permission. Following the outbreak of clashes in Taksim Square during the Gezi Park protests in 2013, which resulted in numerous injuries, Workers' Day celebrations were once again prohibited.

Today, the fight for workers' rights persists across the globe. The Covid-19 pandemic has exacerbated the decline of workers' rights in numerous countries. As a result of unemployment and economic hardships, many workers are compelled to accept low wages. Moreover, the liberties of labor unions are curtailed in many countries, and advocates who stand up for workers' rights

are subjected to undue pressure. These hardships have also affected Türkiye, where workers' rights have suffered as a result of the pandemic-induced rise in unemployment and economic difficulties.

Amidst all these challenges, International Workers' Day remains a significant occasion in the fight for workers' rights across the globe. The fight for workers' rights persists to this day, and International Workers' Day serves as a vital occasion for sustaining the struggle. In today's world, where economic difficulties are on the rise, it is challenging to find a solution that addresses the grievances of both employers and workers, while supporting and incentivizing employers to improve working conditions for workers and bringing employment conditions and criteria to desirable levels. We celebrate International Workers' Day with the hope of achieving a better future with improved conditions for everyone around the world.

Elif Kahya, Legal Intern



**In Türkiye, International Workers' Day was formally recognized in 1923, under the name of "Workers' Day". The demonstrators have encountered numerous obstacles during Workers' Day celebrations through the years.**





# News to the World

# Legality News to the World

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## Amendments Resulting from the 7th Judicial Package

Law no. 7445 on Amendments to the Enforcement and Bankruptcy Law and Other Laws, known as the 7th Judicial Package, was published in Official Gazette no. 32154 of 05.04.2023.

- Amendments to Enforcement and Bankruptcy Law no. 2004 are as follows:

A court order will be necessary to seize places used for housing purposes.

Personal belongings and common household goods of family members will not be seized.

Property will not be seized in excess of the debt.

An article titled “Disposal of property that does not need to be retained” has been added.

- Amendments to Law no. 2313 on the Control of Narcotic Drugs concern how to seize narcotic drugs.
- In accordance with the amendments to Law no. on 6136 Firearms, Knives and Other Tools, the evidence that does not need to be retained now includes evidence resulting from migrant smuggling activities.
- In accordance with the amendment to Attorneyship Law no. 1136, lawyers that will establish a firm will be able to get loans. Moreover, newly qualified lawyers will be exempt from paying bar fees during their initial five years of practice.
- In accordance with Additional Article 1 of Anti-Terror Law no. 3713, those that are entitled to be appointed to the positions of officers, subject to Civil Servants Law no. 657, contracted personnel, and permanent personnel will now include not only the personnel serving in Law Enforcement Security Services but also penal institution officers, including the director of penal institution, the chief



execution and protection officer, and the execution and protection officer.

- In accordance with the addition to Article 437 in Turkish Civil Code no. 4721, which stipulates how to rule in cases concerning the restriction of freedom for protection, the judge will hear the relevant person, complete the investigation and render a verdict within maximum two days, without delay.

- Amendments to Turkish Criminal Code no. 5237 are as follows:

The lower limit for the crime of migrant smuggling has been raised from 3 to 5 years.

The sentences for the manufacture and trade of synthetic drugs and stimulants will be raised by half.

In cases where the public filing of charges for drug or stimulant-related offenses is delayed, the offender may receive a probationary period of no less than one year. This period can be prolonged for up to two years in six-month increments.

- Amendments to Criminal Procedure Code no. 5271 are as follows:

Investigators will be allowed to record audio or video in confidential assignments.

In situations where a conviction or a sentence is deemed unnecessary, and an alternative decision, rather than a security measure, is more appropriate, the suspect's questioning may be terminated in the absence of legal action. Otherwise, the suspect's questioning should be completed.

- Pursuant to Law no. 5275 on Execution of Sentences and Security Measures, if a female convict who meets the criteria set forth in the Law has a child below eighteen years of age that requires care due to a disability or severe ailment, and does not pose a significant and concrete public safety threat, her sentence may be deferred. Convicts addicted to drugs and stimulants will be required to participate in a program for treatment and rehabilitation.

- In accordance with the amendment to Misdemeanors Law no. 5326, the administrative fine prescribed in article 43/A regarding the obligations of legal persons will now be imposed on all kinds of legal persons, instead of only legal persons subject to private law.

- With the amendment to Probation Services Law no. 5402, article 12/A titled "Duties related to the treatment and/or probationary measures to be enforced on individuals who use drugs or stimulants" has been introduced after article 12. The article specifies the duties of probation directorates regarding suspects on whom the public prosecutor has imposed a probation, or a treatment and a probation under article 191 of the Turkish Criminal Code. In accordance with the addition of this provisional article, the Presidential Strategy and Budget Department will transfer the necessary subsidies to the budget of the relevant ministries for the services to be provided as well as the treatment and rehabilitation centers to be opened as per the amendment, and the required personnel for these services and centers will be assigned to the relevant ministries.

- With the amendment to Anti-Smuggling Law no. 5607, article 19, which pertains to individuals responsible for preventing, tracking, and investigating smuggling operations, has been expanded to encompass those who report money laundering crimes arising from smuggling, suspected smuggling, and property offenses.

- Amendments to Turkish Commercial Code no. 6102 are as follows:

Commercial disputes valued below ₺1 million will be resolved through a simple trial, presided over by a single judge.

Mediation will be mandatory in cases involving withdrawal of appeals, negative declaratory proceedings, and restitution claims.

- Amendments to Law no. 6325 on Mediation in Civil Disputes are as follows:

In accordance with the amendment to article 17, regarding the end of mediation, the mediator will not only explain the mediation minutes and the conclusions to the disputing parties but also inform any party that is not present through any means of communications.

An enforceability annotation will be required for settlement agreements in international settlement cases.

Except for cases where law mandates an enforceability annotation, an agreement executed by the parties, their lawyers, and the mediator, and in commercial disputes, by the lawyers and the mediator, will serve as a court order without the need for an enforceability annotation.

Mediation will be a procedural requirement in disputes arising from tenancy (except for the eviction of rented property without a court decree), disputes regarding the division of movable and immovable properties and elimination of joint ownership, disputes arising from Turkish Condominium Law, and disputes arising from vicinity rights.

Disputes relevant to the transfer of immovable property or the establishment of limited real rights on the property may be resolved through mediation, and an annotation may be placed on the title registration in case of settlement.

An obligation to inform the principal party has been added to the mediation information clause, and filing for interim injunctions and negative declaratory actions is now permitted within 2 weeks from the date of issuance of the last minutes for debtors.

- In accordance with the amendments to Law no. 6384 on Settlement of Some Applications Filed Before the European Court of Human Rights via Payment of Compensation, a commission will be established to decide on the relevant applications. Accordingly, the commission will review the individual applications pending in the Constitutional Court if they have been referred to the commission as of 09.03.2023.

- In accordance with Labor Courts Law no. 7036, mediation will be a procedural requirement in cases involving withdrawal of appeals, negative declaratory proceedings,

and restitution claims related to employee or employer receivables and compensation. In accordance with the addition to the article on mediation as a procedural requirement, mediation will be a procedural requirement in cases involving withdrawal of appeals, negative declaratory proceedings, and restitution claims related to employee or employer receivables and compensation in addition to cases involving such receivables and compensation along with reinstatement claims. The provision will be effective as of 01.09.2023.

- In Juvenile Protection Law no. 5395, the second paragraph of article 41/H has been amended to stipulate that specialists or teachers overseeing the processes of delivering a child or forming a personal bond with a child on weekdays will be remunerated on a per-case basis.



**For the full Law, see:**

<https://www.resmigazete.gov.tr/eskiler/2023/04/20230405-3.htm>



### Law Amending the Law on Organized Industrial Zones and Other Laws

Law no. 7451 Amending the Law on Organized Industrial Zones and Other Laws, published in Official Gazette no. 32159 of 10.04.2023, sets forth significant amendments, such as the addition of a definition for a green OIZ, new requirements regarding site selection and setup processes for OIZs, the acceleration of the setup stage for OIZs, and the addition of clauses that benefit OIZs with regard to the expropriation process.

- With the amendment regarding green OIZs, the Law now includes a definition of a Green OIZ, and projects developed by OIZs that meet the Green OIZ standards will be prioritized in the evaluation process to encourage green transition. The TSE will certify the green OIZs based on the criteria established by the Ministry. In addition, with the amendment regarding loans, the Ministry of Industry and Technology may provide loans for Green OIZ projects and give them priority in the evaluation process. The goal is to promote green transition.
- With the amendment regarding site selection, setup and planning, the selection of an OIZ site in industrial zones designated in the current zoning plans no longer requires the OIZ site selection process, provided that the opinion of the administration that approved the plan is taken, and geological and geotechnical surveys are conducted in accordance with the zoning plan. In case a proprietor fails to fulfill their investment commitment within the timeframes stated in the regulation, their immovable property will be expropriated. The representatives of the relevant professional institutions and organizations may also take part in the setup of OIZs in accordance with the opinion of the ministry.
- The amendment has revised the previous restrictions on the sizes of service and support areas as well as shared areas within an OIZ. Previously, the sizes of service and support areas could not exceed 15% of the OIZ's overall size whereas the sizes of shared areas could not be less than 5% of the total OIZ size.

- As for the acceleration of the process following an urgent expropriation decision, OIZs and participants will be permitted to construct infrastructure and plants, respectively, in areas where an urgent expropriation decision has been made, after they deposit the sum decided upon by the court into the bank account, while the registration process is ongoing.

- Regarding land sales, it is stipulated that land sales must follow the principles and procedures established by the enterprise committee and specified in the regulation, ensuring transparency. The previous legal constraint on determining the sales prices of immovable properties in Organized Industrial Zones will no longer be valid.

- Regarding land allocations, the practice of pre-allocation has been introduced for OIZs, and the specifics of this practice will be determined by the regulation. In addition, OIZs that construct facilities on their lands and participants that manufacture will be allowed to engage in rental and sales of properties with superstructures.

- Regarding free parcel allocation, the legal requirement for the practice of allocating free parcels, either fully or partially, in OIZs that do not receive loans from the Ministry, has been removed.

The decision's provisions will be enforced by the President and become effective from the date of publication.



**For the full Law, see:**

<https://www.resmigazete.gov.tr/eskiler/2023/04/20230410-1.htm>



### General Communiqué on Corporate Tax (Serial No: 22)

Communiqué (Serial No: 22) Amending General Communiqué on Corporate Tax (Serial No: 1), published in Official Gazette no. 32156 of 07.04.2023, provides explanations regarding the amendments to article 19 in Law no. 7186 Amending Income Tax Law and Other Laws of 17.07.2019 and to Corporate Tax Law no. 5520. Accordingly, General Communiqué on Corporate Tax serial no. 1 has been amended as follows:

Investment contributions concerning companies that possess investment incentive certificates for the development of electric vehicles in Türkiye will be deducted from the special consumption taxes paid during the acquisition of such vehicles, and investment contributions that cannot be utilized due to partial completion in investment incentive certificates will be adjusted for inflation.

- Investment contributions to be provided for investments for the production of electric vehicles that are eligible for Project-Based Investment Incentives will be provided by refunding special consumption taxes paid for such vehicles.
- Taxpayers who manufacture electric vehicles in Türkiye, which are supported and developed with R&D activities performed exclusively in Türkiye, will benefit from investment contributions that they are entitled to under article 32/A of the Law due to such investments, to the extent specified in the incentive decision, until 31.12.2032, in the form of refund of the special consumption tax paid to the tax office until 31.12.2035 due to the first acquisition of such vehicles, partially or completely, in cash or by deduction.
- To this end, the relevant amount should not exceed 56.5% of the investment contribution to be granted under provisional article 12 of the Corporate Tax Law, or the special consumption tax paid for the sale of maximum 960 thousand vehicles under the condition that the stipulated amount is not exceeded.
- The refund requests for special consumption taxes will be processed only if the required documents specified in

the Communiqué are complete. Once the taxpayer submits the necessary documents to the tax office, the office will verify through the system whether the taxpayer has paid the special consumption tax for which refund is requested for vehicles manufactured in Türkiye. If all the documents are complete, the refund will be granted based on the taxpayer's request in accordance with the Certified Public Accountant Report or the Tax Audit Report.

Effective as of the date of their publication, the provisions of the decision will be enforced by the Minister of Treasury and Finance.



For the full Communiqué, see:

<https://www.resmigazete.gov.tr/eskiler/2023/04/20230407-9.htm>

# World News



# Legality World News

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## UN Passes Landmark Resolution on Climate Justice

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The United Nations (UN) has adopted a resolution aimed at facilitating the legal accountability of polluting countries that neglect to address the climate crisis. Following the vote on a crucial resolution on climate justice, the International Court of Justice (ICJ) will be requested to provide its advisory opinions on countries' obligations with respect to climate change and human rights.

The resolution represents a significant advancement in the pursuit of climate justice by urging the highest judicial body in the world to establish the responsibilities of individual states in combating climate change.

In 2019, law students on a Pacific island initiated a campaign seeking clarity on the responsibilities of countries, both big and small, in addressing the issue of global warming. The four-year campaign led by the Republic of Vanuatu has resulted in a groundbreaking resolution that will make the ICJ rule on climate change and human rights.

The UN General Assembly has unanimously endorsed the resolution proposal submitted to the ICJ by a group of young activists, led by Vanuatu, a small Pacific island that is vulnerable to the consequences of the climate crisis. The resolution defines the legal obligations of UN member states in tackling the climate crisis and specifies the consequences that countries will encounter if they fail to take action.



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Source:  
<https://earth.org/resolution-on-climate-justice/>

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**Arkansas Enacts Act Restricting Social Media Accounts for Minors**

On 12 April 2023, Arkansas Governor Sarah Huckabee Sanders enacted SB 396, the state’s Social Media Safety Act (“Act”). The Act followed Utah’s enactment of similar social media laws in March.

The Act forbids social media companies from permitting Arkansas residents below 18 years of age from holding accounts on their platforms without parental consent and obligates them to verify the age of account holders. To verify a user’s age, social media companies will refer to a third-party vendor for “reasonable age verification” in order to check a user’s government-issued identification or a digitized identification card.

Social media companies that run social media platforms and have an annual revenue of at least \$100 million will be subject to the provisions of the Act. According to the Act, a “social media company” is defined as an online platform where account holders can:

- (1) create accounts to engage in social interactions with other accounts,
- (2) create posts or content,
- (3) view posts or content of others, and
- (4) interact with other account holders and users.

The Act will be enforced by the Arkansas Attorney General, and it permits a private right of action to claim a penalty of \$2,500 per violation, as well as fees and damages awarded by a court. The Act is expected to become effective from September 1, 2023.

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**Source:**  
<https://www.natlawreview.com/article/arkansas-enacts-legislation-restricting-social-media-accounts-minors>

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**Italian Senate Reviews Draft Law Foreseeing Imprisonment for Attacks on Cultural Heritage**

The Italian parliament has taken action in response to climate activists’ numerous attacks on cultural assets. Currently, the Senate needs to review a draft law that foresees imprisonment from 6 months to 3 years and fines from €500 to €1,000 for damaging cultural heritage. Once the draft law is endorsed by the Senate in the voting, it must be signed by President Sergio Mattarella in order to be enacted and take effect.

Across the world, numerous cultural assets have suffered damage due to recent protests. In Italy, activists wishing to draw attention to climate change and environmental damage poured charcoal into the famous Fontana della Barcaccia in Rome and threw washable paint on the Italian Senate building and the statue of Vittorio Emanuele II in Milan.

The draft law aims to take action against environmental activists who have damaged artworks or cultural buildings in recent years to draw attention to the urgency of the climate crisis.

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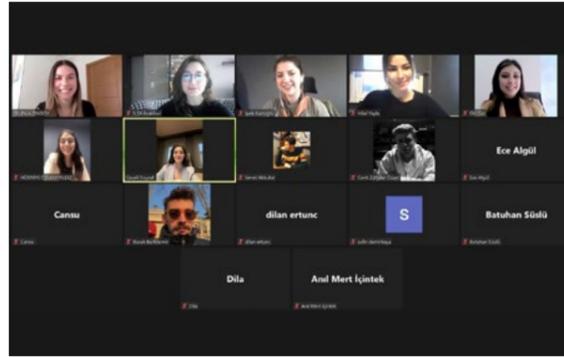
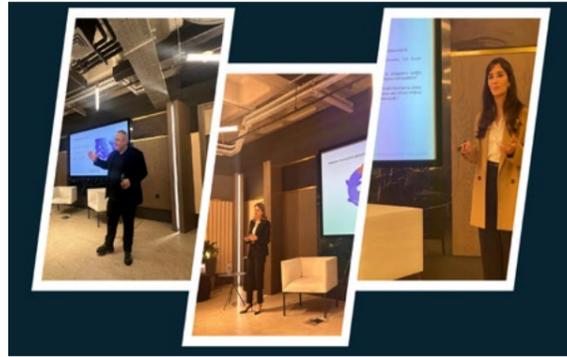
**Source:**  
<https://www.euractiv.com/section/energy-environment/news/italy-mulls-measures-to-protect-cultural-heritage-from-climate-activists/>

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# News from Şengün



## Legality News from Şengün



Şengün & Partners Attorney Partnership delivered a presentation on “Entrepreneurship, Law and Strategic Perspective” in an event held by the Entrepreneurial Organizations Platform (“Girişimci Kurumlar Platformu”) to share its insights on how to apply legal strategies in the commercialization of internal innovative ideas, as well as the regulations that promote cooperation between departments and innovation leaders.

The presentation was led by Nedim Korhan Şengün (Founding Partner and Attorney), İclal Arguç Demirtaş (Executive Board Member), and Gazali Soysal (Managing Senior Associate).



ILSA Istanbul made an online visit to Şengün & Partners Attorney Partnership via a Zoom meeting, during which the students had the opportunity to meet Gazali Soysal (Managing Senior Associate), Hilal Yayla (Associate), Elif Gür (Associate), İpek Kurtoğlu (Legal Intern), and H. Özlem Yıldız (Legal Intern).

During the meeting, the participants engaged in discussions on law, legal philosophy, the parameters of the legal industry, and the advantages of office organization. There was also a presentation about the role of law in the field of entrepreneurship, which is gaining more attention lately.



Nedim Korhan Şengün, Founding Partner and Attorney of Şengün & Partners Attorney Partnership, participated and shared his views in Sales Network’s event, “Sales Industry Consolidates for the Earthquake-Affected Regions: Collaborative Workshop for Solution Projects”, held to foster collaborations aimed at facilitating recovery from the earthquake.



Şengün & Partners Attorney Partnership attended the “Contact Day” event organized by Sales Network, where the distinguished members of the community gathered. It was represented by Güzin Şengün (Managing Partner and Attorney), İclal Arguç Demirtaş (Executive Board Member), Gazali Soysal (Managing Senior Associate), and Ezgi Aydoğanoglu (Şengün Media News Editor). In the event, Şengün & Partners Attorney Partnership was awarded a “Partner” plaque in recognition of its collaboration with Sales Network. Güzin Şengün accepted the plaque presented by Ergün Güler.

## Legality Sources

- <https://www.resmigazete.gov.tr/eskiler/2023/04/20230405-3.htm>
- <https://www.resmigazete.gov.tr/eskiler/2023/04/20230410-1.htm>
- <https://www.resmigazete.gov.tr/eskiler/2023/04/20230407-9.htm>
- <https://earth.org/resolution-on-climate-justice/>
- <https://www.natlawreview.com/article/arkansas-enacts-legislation-restricting-social-media-accounts-minors>
- <https://www.euractiv.com/section/energy-environment/news/italy-mulls-measures-to-protect-cultural-heritage-from-climate-activists/>

## Legality Locations



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April - May 2023 | E-Bulletin